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**Annual report of the United Nations High Commissioner
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High Commissioner and the Secretary-General**

**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Summary report on the high-level panel discussion to commemorate the seventieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide

**Report of the Office of the United Nations High Commissioner
for Human Rights**

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I. Introduction

1. Pursuant to Human Rights Council resolution 37/26, on 13 September 2018, the Office of the United Nations High Commissioner for Human Rights (OHCHR) organized a high-level panel discussion to commemorate the seventieth anniversary of the Convention on the Prevention and Punishment of the Crime of Genocide, which was adopted in 1948. The panel was chaired and moderated by the President of the Human Rights Council, Vojislav Šuc. Following opening statements by the United Nations High Commissioner for Human Rights, Michelle Bachelet, and the Minister of Foreign Affairs of Armenia, Zohrab Mnatsakanyan, the high-level panel was organized around the remarks of four panellists, followed by an interactive dialogue with the participation of 22 members of the United Nations and 7 observers and concluding remarks by the panellists and the Chair.

2. The panellists were Adama Dieng, Under-Secretary-General and Special Adviser to the Secretary-General on the Prevention of Genocide, Kimberly Prost, judge of the International Criminal Court, William Schabas, professor of international law at Middlesex University and of human rights law and international criminal law at Leiden University, and Fabián Salvioli, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence.

II. Opening statements

3. In her opening statement, the High Commissioner gave a special welcome to the panellists, highlighting their enormous breadth of knowledge and expertise. She noted that the Convention on the Prevention and Punishment of the Crime of Genocide had been the first human rights treaty to be adopted by the General Assembly. The twin events of the adoption of the Convention on 9 December 1948 and the adoption of the Universal Declaration of Human Rights the next day had marked the start of a new era of human rights, with a vision of a world in which the genocide of the Holocaust, and the stripping of multiple human rights that it constituted, would never happen again. However, as the High Commissioner reminded the Council, the “odious scourge” of genocide, as the Convention itself described it, remained both a threat and a reality in the twenty-first century, as evidenced by the report of the independent international fact-finding mission on Myanmar on the military-led campaign of murder, rape and assault against the Rohingya people (A/HRC/39/64). She noted the conservative estimates of 10,000 dead, countless more bereaved, maimed, raped and traumatized and of the nearly three-quarters of a million people forced to flee to Bangladesh.

4. The High Commissioner stated that, 70 years after the adoption of the Convention, the gravity of recent acts perpetrated against the Rohingya and against the Yazidis left no doubt that the Convention mattered as much currently as it did when it was adopted. The international community must take stock and hold those responsible to account. Beyond providing justice for victims and punishment for perpetrators, accountability mattered, because ending impunity was central to ending the crime of genocide. Impunity was an enabler of genocide and accountability its nemesis. Since punishment was key to prevention, those stated twin aims of the Convention should not be seen in isolation from each other. Under international human rights law, accountability included effective, prompt, thorough and impartial investigations, prosecutions, access to justice and effective remedies for victims. To that effect, the United Nations approach embraced initiatives ranging from fact-finding exercises to judicial processes.

5. The High Commissioner referred to the major joint study conducted by the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence and the Special Adviser on the Prevention of Genocide on the contribution of transitional justice to the prevention of gross violations and abuses of human rights and serious violations of international humanitarian law, including genocide, war crimes, ethnic cleansing and crimes against humanity and their recurrence (A/HRC/37/65). The central message of the study was clear, namely that transitional justice processes contributed to the prevention of violations of international human rights law and international humanitarian

law, and in particular genocide, war crimes and ethnic cleansing. Those processes delivered truth, justice and reparations, and thus constituted a vital tool in breaking the cycles of impunity, discrimination and marginalization and the risk of recurrence.

6. The High Commissioner noted that the joint study highlighted the importance and potential preventive impact of the work of the Human Rights Council and OHCHR. The International Criminal Court formed a central pillar of the work to punish, and thus prevent, the gravest of international crimes. States had the primary responsibility for prosecuting alleged perpetrators, but the International Criminal Court could step in when a State was unwilling or unable to deliver justice. That made it possible to bridge, if not eradicate, the impunity gap for international crimes, including genocide.

7. The High Commissioner welcomed the recent decision by the International Criminal Court's Pre-Trial Chamber I, which had found that the Court had jurisdiction over the alleged deportation of members of the Rohingya people from Myanmar to Bangladesh and other possible crimes.¹ While not specifically addressing the crime of genocide, the decision offered real hope regarding accountability for the crimes committed. The High Commissioner urged all States to support the International Criminal Court, as it was indispensable for justice and deterrence. In the year of commemoration of the twentieth anniversary of the adoption of the Rome Statute of the International Criminal Court, the High Commissioner called upon all remaining countries to sign or ratify the Statute.

8. The High Commissioner noted that genocide was never committed without clear, multiple warning signs. Patterns of abuse against a given group, an intent to harm and an established chain of command always preceded a brutal and horrifying outcome. In the case of the Rohingya, warning signs had abounded: a people oppressed from birth to death, an army answerable to no one and systematic, State-led human rights violations, including the arbitrary deprivation of nationality, which had gone unpunished for decades. Seventy years after the adoption of the Convention, the High Commissioner observed, one remaining challenge was to improve the recognition of and subsequent action on those warning signs, including hate speech, both in the real world and on social media.

9. In closing, the High Commissioner noted that the Secretary-General of the United Nations had emphasized that the Universal Declaration of Human Rights and the international treaties deriving from it represented the best prevention tool, since they identified many of the root causes of conflict and provided real-world solutions. It remained essential, as the seventieth anniversaries of the Convention on the Prevention and Punishment of the Crime of Genocide and the Universal Declaration of Human Rights were being celebrated, for everyone to stand up for the great vision of a more humane and peaceful world.

10. Zohrab Mnatsakanyan, Minister of Foreign Affairs of Armenia, observed that 10 years had passed since the adoption by consensus on 28 March 2008 of the first Human Rights Council resolution on the prevention of genocide, sponsored by Armenia (resolution 7/25). Since then, the Council had been developing the normative framework for prevention in a regular and consistent manner. Mr. Mnatsakanyan noted the distinguished panellists' remarkable record and commitment to advancing the prevention agenda internationally, and within the United Nations in particular.

11. Since 1998, Armenia had consistently worked, within the United Nations and with its many partners, to raise awareness of the Convention and of the continued risks and challenges relating to atrocity crimes, and towards building legal and institutional capacity for prevention. Armenia stood firm in its resolve and commitment to the promotion of the human rights agenda and the prevention of atrocity crimes, including genocide. It had worked towards that agenda with the Special Adviser on the Prevention of Genocide, including in 2015, when the General Assembly, in its resolution 69/323, had unanimously proclaimed 9 December as the International Day of Commemoration and Dignity of the

¹ International Criminal Court, Pre-Trial Chamber I, request under Regulation 46 (3) of the Regulations of the Court, decision on the "Prosecution's Request for a Ruling on Jurisdiction under Article 19(3) of the Statute", ICC-RoC46(3)-01/18, 6 September 2018, paras. 73–79.

Victims of the Crime of Genocide and of the Prevention of This Crime. Together with the Special Adviser, Armenia had since used the International Day as an important platform for advancing the prevention agenda within the United Nations. It was similarly advanced in Geneva through the high-level panel.

12. Mr. Mnatsakanyan acknowledged and paid tribute to the lawyer Raphael Lemkin, who had dedicated his entire life to challenging and confronting States' sovereign right to kill. Mr. Lemkin had formulated the legal term of genocide and endorsed the attribution of international responsibility to sovereign States to protect their populations from the crime of genocide. Mr. Mnatsakanyan also paid tribute to every national and international activist, advocate, expert and practitioner who had stood up in the face of atrocities. He referred to the Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide (E/CN.4/SUB.2/1985/6 and Corr.1), referred to as the "Whitaker report" after Ben Whitaker, a member of the Sub-Commission on Prevention of Discrimination and Protection of Minorities of the Commission on Human Rights. The report had introduced the idea of establishing an international body concerned with the prevention of genocide. It was regrettable that such a long time had passed and more genocides occurred before the international community had taken heed of what Secretary-General Kofi Annan had termed "complicity with evil" and, in 2004, endorsed Mr. Whitaker's proposal for tangible yet modest mechanisms for the prevention of genocide.

13. Mr. Mnatsakanyan praised the efforts of the current Special Adviser and of all his predecessors for having worked towards changing the culture of reaction at the United Nations to one of prevention. He expressed gratitude for the Secretary-General's commitment to maintaining the Office on Genocide Prevention and the Responsibility to Protect and for his consistent promotion of the critical functions of early warning and early action in the prevention of genocide.

14. Since the adoption of the Convention, "never again" had been uttered many times, yet genocides had not been prevented. Tendencies towards radicalism, exclusion and hatred were disturbing the international agenda. The conspicuous decline of the international commitment to multilateralism and respect for human rights at a time when more international cooperation and stronger institutions – especially the United Nations – were needed was particularly troubling. While genocides had not occurred often, they constituted the ultimate crime. Thus, Mr. Lemkin's argument to sceptics on the need for legislation had centred around the permanent loss of a targeted group and survivors' permanent loss of an invaluable part of their identity. Mr. Mnatsakanyan stated that Armenia knew that from experience.

15. Mr. Mnatsakanyan referred to the upsetting statistics on the status of accession to and ratification of the Convention: nearly a quarter of the States Members of the United Nations had not acceded. On the eve of the seventieth anniversary of the Convention, as a country that had consistently been promoting the prevention of genocide, Armenia joined its voice to the appeal of the Special Adviser for universal ratification of the Convention.

16. Mr. Mnatsakanyan noted that Armenia had consistently promoted the importance of and need to prioritize early prevention, and that prevention meant early action. Prevention efforts entailed a sufficient capacity to detect, monitor and address early warning signs, which, if unaddressed, could lead to a deterioration and loss of control, and potentially to the perpetration of crimes on a massive scale. Prevention primarily required the legal and institutional capacity of a State – firmly based on political and moral responsibility – to protect and promote human rights and freedoms for all within its jurisdiction. The lack of capacity to secure human rights for all had increased the risk of identity-based violations of rights, the crime of genocide, war crimes and crimes against humanity – being the ultimate manifestation of such violations. The consistent and determined protection of fundamental human rights formed part of a State's responsibility to prevent. Thus, prevention must be viewed as a responsibility to be delivered first and foremost at the national level. Solid national institutions, an active, diverse and robust civil society, free media and academia contributed to transparency and accountability.

17. At the international level, prevention required a continued integrated approach and action by all, combining the three pillars of security, development and human rights. The human rights and prevention mechanisms of the United Nations had developed considerable capacity to detect risks, to gather and analyse early warning signs and to present them to States. Human rights mechanisms, including the special procedures of the Human Rights Council, treaty bodies and the universal period review process and OHCHR, deserved sustained attention and use, being well placed to secure collaborative action aimed at early prevention. Mr. Mnatsakanyan drew attention to the practical proposal of the Special Adviser concerning a systematic and structured approach within the United Nations to information gathering, analysis and the dissemination of early warning signs and to supporting regional arrangements and the development by Member States of effective early warning systems. The international community and the United Nations system should be resolute in reacting to all patterns of discrimination and targeting of vulnerable groups, and to hate speech, radicalism and incitement to hatred. Denialism and impunity were fundamental obstacles to prevention. Justice denied had haunted genocide survivors for generations and was an impediment to genuine reconciliation.

18. Education, as a means to promote a culture of respect for human rights, was indispensable for prevention. Mr. Mnatsakanyan highlighted the Global Forum Against the Crime of Genocide, established in 2015, through which Armenia offered a solid platform for international cooperation on the prevention of genocide. The third Global Forum was set to take place in Yerevan on 9 December 2018, drawing together prominent scholars and practitioners on prevention and focusing on the role of education. Mr. Mnatsakanyan emphasized the commitment by Armenia to the collective international effort to prevent future genocides. He concluded by reiterating his deep conviction that “never again” should be uttered for the last time.

III. Contributions of panellists

19. Adama Dieng, Special Adviser on the Prevention of Genocide, referred to the fact that the Convention on the Prevention and Punishment of the Crime of Genocide had been adopted one day before the Universal Declaration of Human Rights, demonstrating its immense importance. The still-fresh memory of the terrible events of the Second World War had prompted Member States to prioritize the drawing up of an international legal convention that would prohibit the crime of genocide, requiring signatory Governments to take all necessary steps to prevent or halt the crime.

20. The crime of genocide did not start with the Convention and, unfortunately, it did not end with it. Throughout history, many events could have been qualified as genocide under the Convention, and the international community continued to face situations that, if tested in a court of law, could be determined to be genocide or another international crime of extreme concern. In the Central African Republic, Iraq, Myanmar, South Sudan, the Syrian Arab Republic and Yemen, for example, people had been subjected to the most terrible crimes under the international community’s watch.

21. The Special Adviser stated that genocide should not be part of the present or the future. It did not happen by accident, nor was it inevitable, but took place due to the international community’s inaction or ineffectiveness in addressing the warning signs. People were dehumanized and persecuted for who they were, for the religion they practised or their culture, or simply for their distinctive physical characteristics. Great suffering, cruelty and inhumane acts stemmed from unacceptable motivations such as the thirst for power or resources, distorted views of identity supremacy, extremist ideologies and selfish interests.

22. The Special Adviser noted that the collective failure to address the underlying crises that set the context for genocide had disastrous human and economic consequences, including enormous loss of life, massive displacement, collective trauma lasting for generations, devastated economies and development being set back by decades. The ripple effects could be felt at the regional and international levels. Genocide could constitute a threat to international peace and security.

23. The Special Adviser recalled that 149 States had ratified or acceded to the Convention, leaving 44 Member States yet to join. That lack of commitment was puzzling and raised the question of what message those States were sending, 70 years after the adoption of the Convention. History had shown that genocide could happen anywhere, and to think otherwise was naive.

24. The Special Adviser referred to the Secretary-General's one-year appeal for the universal ratification of the Convention, which had been launched in 2017, and urged non-signatory Member States to prioritize ratifying the Convention by its seventieth anniversary, on 9 December 2018. Ratification was a matter of moral obligation towards humanity. It represented a recognition of the responsibility of States towards their populations and showed respect for those who had perished. The Convention provided the basis of preventive action and had played a vital role in the development of international criminal law. In the light of the negative impact of the crime of genocide on international peace and security, ratifying the Convention was not just a symbol of international unity, but demonstrated commitment to the fundamental principles of the United Nations.

25. The Special Adviser called for the Convention to be protected as it marked its seventieth anniversary. "Never again", the call that had led the international community to draft the convention, had in fact become "time and again". More than ever, the Convention had relevance and could only be put to rest when the threat of genocide no longer existed. There was a lack of commitment towards the Convention; that commitment and the resolve to take preventive action must be reinvigorated.

26. The Special Adviser concluded by recalling that the Convention, together with other human rights treaties and the Rome Statute of the International Criminal Court, remained the most important legal standard embodying the promise of "never again", which the world had made 70 years ago, and he called on all the Member States to join the cause. There could be no justification for not doing so, as it was a moral imperative.

27. Kimberly Prost, judge at the International Criminal Court, shared her experience as an international criminal law practitioner, drawing in particular on her time as a judge of the International Tribunal for the Former Yugoslavia in a trial with seven accused, the largest handled by the Tribunal.

28. For four years, Judge Prost and her colleagues had listened to witnesses, including victims, survivors, those who had been there to protect, those involved in the conflict and those who had participated in the crime, and reviewed the evidence on the unfolding Srebrenica genocide. They had received a vast amount of evidence – involving more than 300 witnesses and almost 90,000 pages of documents detailing what had happened before, during and after the attacks in Srebrenica and Žepa in Bosnia and Herzegovina in July 1995.

29. In the context of the high-level panel, Judge Prost focused on two lessons that could be drawn from the circumstances and architecture of the genocide in Srebrenica, which were not unique to that case. First, the atrocities arose from a foundation of smouldering hatred, bigotry and ethnic and religious division that had never been addressed, but rather were covered over and suppressed by systems put in place precisely in order to address them. That smouldering had continued until, inevitably, new oxygen brought the flames to life again. The fire had been fuelled by decades – even centuries – of cyclical violence and atrocities, the response to which had never been justice but more atrocity. The words of one witness had stayed with her: "one day we were neighbours and the next day we were killing each other". The painfully clear lesson was that ending the immediate conflict and violence was insufficient. Rather, the only way to prevent genocide and other atrocities was by addressing the underlying issues, ending the cycle of violence, replacing vengeance with justice and ensuring accountability.

30. The second lesson was an ancient one, which the international community did not seem to have learned: that evil could arise from unconstrained power. The architects of the massacre in Srebrenica had been driven by their perceived absolute power, as evidenced by the words of Ratko Mladić, captured on film as he proudly marched through the fallen protected enclave of Srebrenica and boarded a bus filled with members of the Muslim community: "I am Ratko Mladić ... you will have heard of me ... I am giving you your life

as a gift". He and the other architects of the genocide had believed that power would allow them to carry out horrific crimes on a massive scale and would let them get away with it. They had believed they were immune from consequences and justice, and that had emboldened them.

31. Judge Prost noted that the world that had preceded those atrocities and others like it had supported that belief. Soon after the post-Second World War trials in Tokyo and Nuremberg, lessons had been forgotten, progress had been halted, and rampant impunity for grave crimes – without any prospect of justice or accountability – had returned. Many culprits had lived out their lives in the country concerned or in peaceful exile. That culture had bred what followed at Srebrenica and elsewhere. Judge Prost expressed her fear that, after a time of great progress, the world was returning to an age in which the same culture prevailed and power safeguarded atrocity, accountability was an uncomfortable word, victims knew no justice and there was a culture of impunity. Continuing that culture would lead the world into another generation of genocide and atrocity. The law must speak to power and atrocity must be answered with justice, not revenge. The international community should build a culture in which leaders, soldiers, rebels and civil servants feared the consequences of crime and saw accountability and justice all around them.

32. Judge Prost stressed that accountability was not a panacea; rather, the sole solution was to prevent atrocity. A multifaceted approach was required to respond to the complexity of the problem, as had been well recognized by the late Secretary-General Kofi Annan, who had implemented the comprehensive strategy for prevention of genocide. However, accountability was still essential, as without it the world would fail. The challenges to international criminal justice were great, but the international community could not afford to fail, as the consequences would be grave.

33. Judge Prost raised the question of how to ensure that the international community did not fail. She viewed the International Criminal Court as part of the Rome Statute system, rather than as a stand-alone body. Under that system, the Court did not replace the States' sovereign authority to address crimes, but complemented it. It served the purpose of motivating States to take up their responsibility to investigate and prosecute international crimes, only intervening when no State was willing or able to act. It would be most effective when universal adherence was reached and, in the interim, it was an important tool for achieving accountability.

34. Judge Prost acknowledged that there were States that had concerns about the International Criminal Court and did not support it, and that some openly opposed and attacked it. While States were entitled not to be bound by the Rome Statute and to criticize it, no State could escape the obligation to hold perpetrators of the most serious crimes known to humanity accountable. While a State could criticize the Court, none could credibly be opposed to justice. In that regard, Judge Prost observed, in order to change the current culture of impunity, the conversation about atrocities and the Court needed to change. In particular, those opposed to the Court had to be asked what alternative they would propose to achieve accountability, justice for victims and prevention. In the face of a lack of national action for the vast majority of the crimes concerned, routine references to sovereignty and national prosecutions were insufficient and meaningless. Such references did not constitute an answer; rather, they were empty platitudes.

35. The work of the Human Rights Council, of the High Commissioner and her Office and of the Special Advisor was of critical importance, as it shed light on and condemned atrocious crimes. Inquiries were made and evidence was gathered. While stressing the need for that work to continue, Judge Prost called for more to be done. She urged members of the Council to use it and other international forums to generate the required political will and pressure to identify atrocities and bring accountability. While justice was costly and could be slow, the cost of genocide and atrocity was far greater, and rebuilding societies required generations. On the twentieth anniversary of the Rome Statute and the seventieth anniversary of the Convention, Judge Prost called for justice to be reprioritized, with a renewed commitment to accountability as an important step towards preventing genocide for current and future generations.

36. William Schabas, professor of international law at Middlesex University and of human rights law and international criminal law at Leiden University, highlighted that the Convention had been drafted and adopted as a response to the fact that genocide had occurred throughout history, rather than as a response to the Second World War specifically, as had been the case for the Charter of the United Nations, which made explicit reference to the two world wars. In fact, in its resolution 96 (I) on the crime of genocide, the General Assembly stated that many instances of such crimes had occurred. In the preamble to the Convention, the contracting States recognized that, at all periods of history, genocide had inflicted great losses on humanity. Indeed, the twentieth century had begun with the genocide against the Herero in German South-West Africa, as acknowledged in 2017 by the German parliament. The international community had spoken of genocide when referring to the 1915 atrocities committed against the Armenian population under the Ottoman Empire, which had been condemned at the time by France, the Russian Empire and the United Kingdom of Great Britain and Ireland, and were referred to as crimes against humanity and defined as massacres in the 1920 Peace Treaty of Sèvres. Subsequent to the adoption of the Convention, other genocides had been committed, including in Bosnia and Herzegovina and Rwanda, as had been recognized by international courts such as the International Court of Justice, the International Tribunal for the Former Yugoslavia and the International Criminal Tribunal for Rwanda.

37. Mr. Schabas noted that Winston Churchill had been right when he had said that genocide was a crime without a name, which indeed it had been until Raphael Lemkin invented the word. Mr. Lemkin's vision of genocide was broader than the definition found in the Convention itself. In particular, Mr. Schabas believed that genocide encompassed a range of punishable acts that corresponded more closely to the present understanding of the crime against humanity of persecution. However, in 1948 many members of the United Nations had been reluctant to go that far because of their own history of acts of persecution and oppression against minorities within their borders. Thus, while the Convention had been criticized for its narrowness, it should be kept in mind that it was a compromise reached in 1948 at the dawn of modern international human rights law. It was the first convention within the United Nations human rights system.

38. Mr. Schabas observed that the Convention was narrow, in as much as it referred to a national, ethnical, racial or religious group and not to a range of other groups. In that regard, Mr. Lemkin had been in agreement with the drafters, as he had seen the Convention as an extension or a correction of the range of treaties and other instruments aimed at protecting national minorities that had been adopted in the aftermath of the First World War.

39. At the same time, the Convention was a reflection of an understanding broadly shared by the members of the United Nations at the time, that the atrocities of the Second World War had been the result of a more deep-seated flaw in humanity, namely the belief in a particular racial group as superior or inferior to another. That had led to the Holocaust – the Shoah of the Second World War – and had also manifested itself in other forms of discrimination such as slavery, the slave trade and colonialism.

40. For 40 years following the adoption of the Convention, international criminal law had been largely stagnant and the Convention had been the only instrument of significance in the field. In parallel, human rights law had continued to evolve. The 1990s had seen a dramatic change, with the renaissance of international criminal law. However, while there had been phenomenal legal development particularly in relation to the definition of crimes, such as the extension of war crimes to cover non-international armed conflict and the understanding that crimes against humanity could also be committed during peacetime, paradoxically, the definition of genocide had been left unchanged. It was as if the Convention had been put on a pedestal as a monument to legal development.

41. Mr. Schabas noted that, with the adoption of the Rome Statute and the “responsibility to protect” resolutions, in which no significant distinction was made between the crime of genocide and crimes against humanity, the concept of genocide in the Convention might have become less significant. That might explain, but not excuse, the failure by many States to ratify the Convention. There had only been 10 new ratifications

over the past decade. Forty-four Member States had still not ratified the Convention, including four members of the Human Rights Council.

42. Mr. Schabas observed that the word “genocide” was used in many ways. When applying the Convention, the term was used and interpreted narrowly, including by judges at international criminal tribunals and the International Court of Justice. In other contexts, the term was used more broadly to include ethnic cleansing and other mass atrocities in order to attract the attention of the international community. However, both the narrow legal approach and the broad approach favoured by activists and journalists – and even by diplomats at times – showed that genocide retained the label given to it in the work of the International Law Commission, and subsequently by the International Criminal Tribunal for Rwanda, as “the crime of crimes”.

43. Fabián Salvioli, Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence, noted that the Human Rights Council was the appropriate forum to commemorate the seventieth anniversary of the Convention. The best way to do so was, firstly, by feeling and expressing solidarity with the victims and their families. Past victims were still suffering from the effects of genocidal practices and crimes against humanity. Such solidarity had to lead to action by the international community so that those crimes did not go unpunished, societies knew the truth, victims received reparations and the repetition of such events was prevented.

44. Secondly, the international community had to recognize the value of the Convention. While the negotiations had been challenging, the Convention had been approved unanimously by the General Assembly, thus marking an epochal event. The Special Rapporteur’s mandate was closely related to the issue of genocide as, increasingly, when societies had faced the crime of genocide and crimes against humanity, transitional justice mechanisms had been used to move forward. Consequently, the principles and values that had inspired the Convention had to be reflected in the collective processes of memory, truth and effective justice.

45. Thirdly, in order to guarantee non-recurrence, the preventive dimension had to be emphasized, and national, regional and global plans of action for the prevention of genocide and other international crimes had to be developed. The Universal Declaration of Human Rights, adopted by the General Assembly the day after the adoption of the Convention, constituted the most powerful tool of prevention. It recognized the civil, political, economic, social and cultural rights of all people and gave birth to the most beautiful branch of international law, international human rights law.

46. The Special Rapporteur noted that discrimination lay at the heart of the denial of equality of all persons, and was thus at the origin of flagrant and systematic violations of human rights. The principle of non-discrimination was non-derogable and a peremptory norm. Consequently, States were obliged to respect and guarantee human rights to all people and had a positive duty to act with due diligence to prevent and sanction discrimination by private entities, companies and individuals.

47. The preventive effect of societies in which human rights were fully enjoyed was unmatched. Therefore, respect for and the guarantee of human rights provided the road map for prevention. All public policies of States had to be directed towards achieving full respect for human rights.

48. At the international level, article VIII of the Convention, which had been eliminated during the Convention negotiations and then reintroduced, provided that any Contracting Party could call upon the competent organs of the United Nations to take such action under the Charter of the United Nations as they considered appropriate for the prevention and suppression of acts of genocide. That put the responsibility on to the international community. The Special Rapporteur cited a quote from Raphael Lemkin’s autobiography attributed to a diplomatic representative who had participated in the negotiations on the Convention: “It’s just a matter of the right people doing the right thing at the right time”.

49. The Special Rapporteur stated that the international community was obliged to promote the principle of a collective guarantee of human rights. It had to raise its voice clearly and strongly when facing the crime of genocide and other atrocious crimes, no

matter who was responsible and who the victim was, to act firmly against hate speech, to reject discrimination and to promote human rights education. If he was present today, as 70 years ago, Lemkin would ask if the right people were in the room to do the right thing at the right time. The Special Rapporteur stressed, therefore, that the best way to commemorate the anniversary was for each individual present to use human rights as a tool daily, in words and deeds, to achieve a response that matched the challenge.

IV. Interactive dialogue

50. During the interactive dialogue, delegations from Australia, Brazil, Costa Rica, speaking on behalf of a group of countries,² Cuba, Czechia, Ecuador, the European Union, Greece, Iraq, Italy, Liechtenstein, Lithuania, speaking on behalf of a group of Baltic and Nordic countries, Montenegro, the Netherlands, speaking on behalf of members of the Group of Friends on the Responsibility to Protect, the Russian Federation, Rwanda, Senegal, Slovenia, Switzerland, speaking on behalf of a group of countries,³ member non-governmental organizations (NGOs) and academic institutions of the steering group of Global Action against Mass Atrocity Crimes, Togo, speaking on behalf of the African Group, Tunisia, speaking on behalf of the Group of Arab States, Turkey and the Bolivarian Republic of Venezuela took the floor.

51. Delegates of the following NGOs also took the floor: the Asian Forum for Human Rights and Development (Forum-Asia), the Center for Global Nonkilling, Human Rights Watch, Rencontre africaine pour la défense des droits de l'homme, Südwind – Association for Educational and Advocacy Activities Related to Development Policy and the World Jewish Congress.

52. Several representatives called for universal ratification of the Convention, and for those members of the United Nations that had not yet done so to ratify it. Some also expressed their support for the International Criminal Court or called upon States to ratify the Rome Statute. Multiple delegations emphasized that the primary responsibility in relation to accountability and prevention lay with States, and referred to the implementation of the Convention and other human rights instruments or the Rome Statute through national legislation.

53. An NGO representative pointed at alarming cases of mass atrocity crimes and allegations of genocide, including in Myanmar.

A. Prevention of the crime of genocide through addressing underlying causes

54. Among the delegations there was consensus that human rights violations provided the backdrop to the crime of genocide, which did not happen overnight and in a vacuum. Some speakers pointed out that genocide was the result of a pattern of human rights violations, such as repression, discrimination and hate speech, committed over a prolonged period. One delegation underlined that it was critical not to forget that the Convention on the Prevention and Punishment of the Crime of Genocide had been adopted after the horrific crimes committed during the Second World War and the targeted destruction of specific groups in various countries, and that those crimes had been the results of inhumane ideologies. It emphasized the importance of addressing contemporaneous manifestations of fascism and neo-Nazism. One delegation condemned acts of war and military intervention, which contributed to poverty and prevented the development and self-determination of peoples, against the spirit of the Convention. Accordingly, delegations agreed that the full respect of human rights was at the heart of any prevention effort. It was essential to foster fundamental rights, including civil, political, social, economic and cultural rights, and the enjoyment of such rights at both the national and international levels.

² Argentina, Brazil, Chile, Colombia, Costa Rica, Mexico, Peru and Uruguay.

³ Argentina, Costa Rica, Denmark, Switzerland and Tanzania.

55. Accountability for violations of human rights was part of the prevention effort. Representatives noted that the International Criminal Court had already had a preventive effect and that, through its establishment, much progress had been made in the fight against impunity for perpetrators of atrocities. On the African continent, an NGO representative said, the main challenge remained the persistence of impunity and the complete disregard for the International Criminal Court by many countries. In the same vein, another NGO representative noted with regret a trend towards impunity. Faced with the veto in the Security Council on a referral to the International Criminal Court, the resolution by the General Assembly establishing a mechanism for the Syrian Arab Republic at least represented a glimmer of hope. One delegate emphasized that impunity for the crime of genocide, war crimes and crimes against humanity encouraged their reoccurrence and acknowledged that, due to political realities and the legal definition of genocide, convictions for the crime of genocide were difficult and rare. Another highlighted the need for transitional justice measures, the need to reveal the whereabouts of missing persons and the need to provide redress to victims.

56. Some delegations agreed that understanding the causes and consequences of genocide and the remembrance of the victims of yesterday played a key role in the prevention of genocide, including by providing an opportunity to learn lessons from the past. Education and capacity-building constituted the foundation of any prevention efforts. One delegate proposed a holistic approach, going beyond criminal sanctions and fostering structural policies promoting a world free of genocide, including human rights education and measures against xenophobia and racial discrimination. One delegation in particular stressed its work in remembering and learning from the 1994 genocide in Rwanda, eradicating its roots and ideology, and in unifying, reconciling and improving the economic and social welfare of Rwandan people. That State had endeavoured to share its experience, including by contributing to peacekeeping missions. An NGO representative noted a worrying increase in attempts to deny crimes to which victims had been subjected, and stressed that there was a collective responsibility to ensure that victims were never forgotten and never denied. One delegation drew a distinction between the denial of genocide – non-recognition – and freedom of expression as recognized by the European Court of Human Rights.

57. An NGO representative highlighted the preventive effect of the Convention itself, stating that the Convention signalled that mass killings were and remained unacceptable and intolerable.

B. International, regional and national responses

58. One delegation emphasized that the silence of the Convention on what form prevention measures by Member States should take did not justify a lack of action. Specifically, several delegations pointed at the role of the Human Rights Council and all Geneva-based organizations in the prevention of gross violations and abuses of human rights, including those that could lead to genocide. The Council should focus on strengthening the effectiveness of its prevention mandate and improving early warning systems. Early warning signs could be recognized through focusing on country-specific situations, establishing monitoring and investigative mechanisms and offering technical assistance and access to special procedure mechanisms within their mandates. One delegate stressed the need for technical assistance to States in relation to their early warning systems.

59. Delegations identified a need to improve efforts to mainstream prevention across the United Nations system, starting with the prevention of all human rights violations and abuses. They emphasized that preventing violence and ensuring accountability also fell within the responsibility of the Security Council. The hope was expressed that the reform process within the United Nations would improve coordination between the Security Council, the General Assembly and the Human Rights Council. Some delegates referred to the responsibility to protect doctrine, including as set out in the 2005 World Summit Outcome Document.

60. It was stressed that the international community had failed too many times to prevent the most serious atrocities and that, rather than lacking information, the international community lacked the political will to act upon clear signs preceding genocide. One delegate therefore called for a genuine culture of prevention, where early warning was complemented by early action.

61. One delegation urged the members of the Human Rights Council to consider the crimes committed by Islamic State in Iraq and the Levant (ISIL) against the Yazidi, Turkoman and Christian communities in Iraq as war crimes, to help the joint investigative mechanism established by the Security Council to gather evidence against ISIL and to bring justice to the victims of those atrocities.

62. On the regional level, the development of policies and programmes by the African Union and the subregional organizations in Africa to prevent and punish genocide was noted. The African Union and its organs had invested in strengthening their capacities in relation to early warning and rapid response in situations that could lead to genocide. The African Union was cooperating with its member States, international organizations, the Special Adviser on the Prevention of Genocide, civil society and religious leaders to build more resilient societies and respond to crises in Africa and elsewhere in the world.

63. Regarding action on a national level, one delegation encouraged Member States to appoint focal points on the prevention of genocide pursuant to resolution 37/26.

V. Concluding remarks

64. **In the concluding remarks, the panel emphasized that the current multilateral system was not adequate to prevent genocide. A system that put people at the heart of the international community's concerns, before considering the political interests of States, was needed.**

65. While improvement of the international legal framework was necessary, the universal ratification of both the Convention on the Prevention and Punishment of the Crime of Genocide and the Rome Statute of the International Criminal Court was first required. The African Union's communiqué calling for the ratification of the Convention and other human rights treaties was positively noted in that context. States should establish universal jurisdiction over the crime of genocide, and support for the International Criminal Court had to be ensured.

66. The panel considered that the Human Rights Council should use early warning systems and that it needed to work together with treaty bodies, the special procedures and the High Commissioner to ensure a holistic approach on prevention. The panel observed that national risk analysis was important to protect populations from atrocities, and that it was essential to invest in structural prevention at the national level, including by supporting other States in the implementation of national strategies for prevention.

67. The panel noted that the independent impartial and international mechanisms for the Syrian Arab Republic and Myanmar and any future mechanisms of that nature were a critical innovation, and allowed for the preservation of evidence for national and international prosecutions. The Human Rights Council had to continue shedding light on atrocities, calling for justice and accountability and generating the political will needed for more accountability mechanisms.

68. The panel provided a historical footnote, describing how Raphael Lemkin had been unhappy when attending the reading of the Nuremberg judgment, because crimes against humanity had been confined to crimes committed in relation with armed conflict. He then attended the first United Nations General Assembly, where he found support from the countries of the South for his proposal for a resolution on genocide. The panel stressed that the Convention was in fact one of the first international legal initiatives to have come from the global South.

69. The President of the Human Rights Council thanked the panellists and concluded, in reference to the quote from Raphael Lemkin's autobiography, that organizing the panel was the right task done at the right time and with the right people.
